



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R4-ES-2012-N013]

[FXES11130400000EA-123-FF04EF1000]

Endangered and Threatened Wildlife and Plants; Receipt of Application for Modification of Incidental Take Permit; Availability of Proposed Low-Effect Habitat Conservation Plan; Mosaic Fertilizer, LLC, Manatee County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application from Mosaic Fertilizer, LLC (applicant), for modification to Incidental Take Permit #TE236128-0. Mosaic Fertilizer, LLC (applicant), requests a 41-year ITP under the Endangered Species Act of 1973, as amended (Act) (ITP; # TE236128-1). We request public comment on the permit application and accompanying proposed habitat

conservation plan (HCP), as well as on our preliminary determination that the plan qualifies as low-effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: If you wish to review the application and HCP, you may request documents by e-mail, U.S. mail, or phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

E-mail: northflorida@fws.gov. Use “Attn: Permit number TE236128-1” as your message subject line.

Fax: David L. Hankla, Field Supervisor, (904) 731-3045, Attn.: Permit number TE236128-1.

U.S. mail: David L. Hankla, Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE236128-1, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, telephone: (904) 731-3121; e-mail: *erin_gawera@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act’s take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit’s proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicant’s Proposal

The applicant is requesting modification of the existing incidental take permit

#TE236128-0 issued September 28, 2010, and made available via the Federal Register on January 28, 2010 (75 FR 4581). The original permit is for the take of approximately 75 acres (ac) of Florida scrub-jay (*Aphelocoma coerulescens*)–occupied habitat incidental to land clearing and phosphate mining. The requested modifications to this permit are increasing the duration of the permit from 24 years to 41 years, changing the boundary of the conservation easement placed on the property used for mitigation, and including take of one additional species, the threatened eastern indigo snake (*Drymarchon couperi*). The applicant requests take of no more than 3 threatened eastern indigo snakes within each 5-year period throughout the 41-year-long duration of the permit. The 4,345-ac project is located on parcel #45400059, within Sections 13, 22-27, and 34, Township 34 South, Range 22 East, Manatee County, Florida. The applicant’s HCP describes the mitigation and minimization measures the applicant proposes to address the effects of the project to the Florida scrub-jay and Eastern indigo snake.

Our Preliminary Determination

We have determined that the applicant’s proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, we determined that the ITP is a low-effect project and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). A low-effect HCP is one involving (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor

or negligible effects on other environmental values or resources.

Next Steps

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 et seq.). If we determine that the application meets these requirements, we will issue ITP # TE236128-1. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue the permit to the applicant.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods in ADDRESSES.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to

do so.

Authority

We provide this notice under Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: February 22, 2012_____

**David L. Hankla,
Field Supervisor,
Jacksonville Field Office,
Southeast Region.**

[FR Doc. 2012-4624 Filed 02/27/2012 at 8:45 am; Publication Date: 02/28/2012]